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BEFORE THE STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, *ex. rel.*,
STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA,

Case No. 2014-035

Complainant,

Stipulation and Consent Order

v.

MICHAEL R. CRAWFORD,

Respondent.

Respondent, Michael R. Crawford, (hereinafter "Crawford"), and the State of Nebraska, *ex rel.* State Real Estate Commission of the State of Nebraska ("Commission"), Complainant, hereby agree and stipulate as follows:

1. A Complaint was served upon Crawford for alleged violations of the Nebraska Real Estate License Act. The Complaint was issued in the above-captioned matter and is incorporated as part of this Stipulation and Consent Order.

2. Crawford recognizes his right to a hearing on this matter pursuant to law, acknowledges that he knowingly and voluntarily waives his right to said hearing, and acknowledges that he waives the right to appeal from this Order of the Commission.

3. Crawford is the holder of a real estate broker's license issued by the Commission on May 28, 1996. At all times relevant to this Complaint Crawford was, and still is, the owner and designated broker for Sandstone Real Estate Chadron, LLC, located at 623 W. 3rd St., Chadron, Nebraska 69337.

4. Crawford warrants that the stipulated facts set forth in this Stipulation and Consent Order are accurate and complete and he acknowledges that he has provided all material information to his knowledge, possession, custody or control to the Commission as an affirmative assertion, knowing and intending that the Commission would rely upon same. Crawford further acknowledges that: (A) he has

no knowledge of any information which is material to the pending complaint proceeding which has not already been fully disclosed to the Commission; (B) in deciding to accept this Stipulation and Consent Order, the Commission has reasonably relied upon the accuracy and the completeness of his disclosures and warranties thereof; and (C) the representations contained in this Paragraph 4 are material to and substantially contributed to the Commission's decision to accept this Stipulation and Consent Order. Crawford further acknowledges that if he has made any material misrepresentations to the Commission regarding the subject matter of this complaint proceeding, either by omission or commission, the Commission may vacate this Stipulation and Consent Order and re-institute the prosecution of this case against him.

5. On April 28, 2014, the Nebraska Real Estate Commission received a letter from Crawford's attorney, Mr. Randy Cullers ("Cullers"), on behalf of Crawford. The letter informed the Commission Crawford's property management real estate trust account ("Trust Account") was the subject of a Nebraska State Patrol ("State Patrol") investigation. The letter states, as a result of the State Patrol's investigation (initiated by Crawford) Crawford became aware of a substantial amount of funds missing from the Trust Account. The letter identifies a former employee, Danielle (Curry) Fry ("Fry"), as the individual who Crawford believes to have embezzled/taken the funds. Further, the letter states Crawford believes more than \$40,000.00 could be missing from the Trust Account.

6. On June 3, 2014, the Commission received an e-mail from Crawford's new bookkeeper, Rhoda Coomes ("Coomes"); Coomes stated Coomes pulled the Real Estate Management Account Sheets for the Trust Account off QuickBooks, and Coomes further stated most of the monthly rents paid sheets are missing. In the e-mail Coomes goes on to state when Fry was training Coomes, Fry was shredding paperwork related to Crawford's trust account. Coomes stated Fry would have Coomes throw important paperwork into the shred box, those documents included bank statements and deposit slips.

7. On June 23, 2014, Fred A. Lockwood & Co., P.C. ("FALCO"), after a review of the Trust Account, prepared an Independent Accountants' Report on Applying Agreed Upon Procedures.

- (a) FALCO found no specific procedures created or implemented for the receipt of rent from tenants.
- (b) FALCO found for each rental payment received, cash or check, there was not always a receipt written as documentation for said payment.
- (c) FALCO found the Monthly Rental List was not kept up each month, to include notes on accounts as to who was renting each address. Payment amounts received, and when they were paid.
- (d) FALCO found the amounts recorded in the receipt book were not found when traced to the deposit slips and QuickBooks file. FALCO found the following total discrepancy for the years 2011, 2012, & 2013: Total of Written Receipts, \$396,388.46, Totals of Receipts Traced to Deposits, \$339,887.75, Total of Missing Deposits, \$56,500.71.
- (e) FALCO found there was no reconciliation process to verify the accuracy of the reconciliation prepared by staff.

8. On, or about, January 13, 2015, Danielle Fry was arraigned in the District Court of Dawes County on four (4) counts of Theft by Deception, \$500-\$1,000.00, in connection with her actions while employed at Crawford's real estate company Sandstone Real Estate Chadron, LLC.

FINDINGS

9. The State Real Estate Commission of the State of Nebraska incorporates the allegations in paragraphs 1 through 8 above as if fully set forth herein.

10. The State Real Estate Commission of the State of Nebraska finds that Respondent Michael R. Crawford violated 299 NAC 5-003.19 a licensee demonstrates negligence, incompetency, or unworthiness when "the licensee fails to supervise persons hired to assist the licensee in his or her licensed real estate activities;" for failing to supervise Danielle Fry leading to the theft of trust account monies.

11. The State Real Estate Commission of the State of Nebraska finds that Respondent Michael R. Crawford violated Neb. Rev. Stat. 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson; for failing to supervise Danielle Fry leading to the theft of Trust Account monies.

12. Respondent Michael R. Crawford admits that the allegations as stated in Paragraphs 1-11 above are true. Crawford agrees with the actions of the Commission and accepts the discipline which shall be made a part of his permanent record maintained in the office of the State Real Estate Commission of the State of Nebraska, and which shall be received into evidence in any subsequent proceeding against him, should one arise.

20. Respondent Michael R. Crawford has prior disciplinary actions against his Nebraska real estate broker's license. 2011-004 - Commission vs. Michael Rae Crawford, Broker. Hearing held September 15, 2011, Crawford's real estate broker's license is suspended for a period of two (2) years with the entire two (2) year period stayed and served on probation. The suspension period commenced on October 28, 2011, and continues through October 28, 2013; plus complete an additional fifteen (15) hours of continuing education with three (3) hours in Agency, three (3) hours in Contracts, three (3) hours in License Law, three (3) hours in Landlord-Tenant Act, and three (3) hours in Short Sales, all to be completed by April 25, 2012; plus pay a civil fine of \$1,500.00, court reporter fees and witness fees totaling \$973.81, on or before October 28, 2011. [Crawford violated Neb. Rev. Stat. § 81-885.24(3) Failing to account for and remit any money coming into his possession belonging to others; Crawford withheld rent proceeds from the Sellers and threatened to withhold the security deposit unless Sellers released Crawford from the Management Agreement. Crawford violated Neb. Rev. Stat. § 76-2417 (1)A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of the written agreement made with the client; Crawford failed to perform the terms of the Management Agreement he had with the Sellers which required that he disburse the security deposit and other deposits, and it provided that either party may terminate the Agreement by providing thirty (30) days written notice. Crawford withheld rent proceeds and threatened to withhold the proceeds of the security deposit, unless Sellers released Crawford from the Management Agreement; (b) To exercise reasonable skill and care for the client. Crawford failed to timely forward funds owed to Sellers, failed to ascertain whether Sellers, Sellers'

bank, or both owned the Property, and/or was engaging Crawford's services and failing to communicate Buyers' offer to Sellers; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease; Crawford failed to communicate Buyers' Offer to Sellers. (d) To account in a timely manner for all money and property received; Crawford failed to account in a timely manner for all money received, in that he withheld rent proceeds and threatened to withhold the proceeds of the security deposit unless Sellers released Crawford from the Management Agreement; Crawford violated Neb. Rev. Stat. § 76-2422(2) by failing to enter into a written agency agreement with the Bank; Crawford violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetence, or unworthiness to act as a broker; by violating numerous unfair trade practices as previously identified ; Crawford violated Neb. Rev. Stat. § 81-885.24(16); Violating any provision of sections 76-2401 to 76-2430.

21. The following disciplinary actions are imposed upon Respondent Michael R. Crawford in the public interest and for the protection of public health, safety, and welfare:

ACCORDINGLY, IT IS ORDERED, AS FOLLOW:

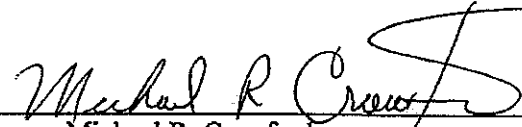
A. The Nebraska real estate broker's license of Respondent Michael R. Crawford is hereby suspended for a period of two (2) years, with the entire balance of such two (2) year suspension stayed and served on probation. Should Crawford violate any law administered by the State Real Estate Commission of the State of Nebraska during the entirety of his probationary suspension period, it may result in a Show Cause proceeding being brought against him by the Commission, in which case, his Nebraska real estate broker's license may be suspended for the remainder of the probationary suspension period and, in addition to or as an alternative to such suspension, the Commission may, as the result of the findings of such hearing, impose any other sanctions as provided in the Nebraska Real Estate License Act.

B. Within ninety (90) days of the signing of this Order by the Chairperson of the

Commission, Respondent Michael R. Crawford shall complete three (3) hours of additional continuing education in the area of risk management as well as Course 0319R Trust Accounts (3) agency law and submit documentary proof to the Commission office that he has completed the required 3-hour courses in the required ninety (90) day period.

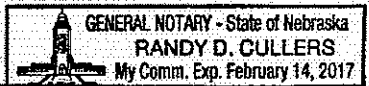
C. Within 30 days of the signing of this Order by the Commission, Crawford shall pay a civil fine of \$1,500.00. Said civil fine shall be submitted to the Commission under separate cover letter addressed to Commission Director Greg Lemon with specific reference given to Case No. 2014-035.

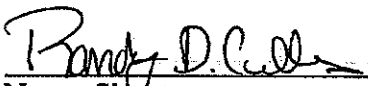
Dated this 5th day of February, 2015.


Michael R. Crawford

State of Nebraska)
)
County of Dawes)

Subscribed to and sworn before me this 5th day of February 2015 by Michael R. Crawford.


Notary Seal


Notary Signature

Case No. 2014-035

Accepted and approved this _____ day of February, 2015.

State of Nebraska, *ex rel.*
State Real Estate Commission
of the State of Nebraska,
Complainant

By: _____
John A. Gale, Chairperson

Attest By:

Greg Lemon, Director